

Come Arbitrate in Austria under the New VIAC Rules 2018!

Kluwer Arbitration Blog

January 25, 2018

Anne-Karin Grill (Schoenherr)

Please refer to this post as: Anne-Karin Grill, 'Come Arbitrate in Austria under the New VIAC Rules 2018!', Kluwer Arbitration Blog, January 25 2018, <http://arbitrationblog.kluwerarbitration.com/2018/01/25/come-arbitrate-austria-new-viac-rules-2018/>

Historic grandeur, impressive architecture, outstanding cultural offerings, natural beauty and diversity, good value for money, beauty, safety, timelessness... Austria truly has a lot going for itself. Yet, should this still not be enough to tempt arbitration users and practitioners around the globe, the new Arbitration and Mediation Rules of the Vienna International Arbitral Centre (VIAC) and a legal framework that is markedly pro-arbitration might do the trick!

In force since 1 January 2018, the new VIAC Rules introduced some important new features. The highlights are:

- The new VIAC Rules consist of three equal parts: Arbitration Rules (Part I, *Vienna Rules*), Mediation Rules (Part II, *Vienna Mediation Rules*) and Annexes (Part III, *Model Clauses, Internal Rules of the VIAC Board, Schedule of Fees, VIAC as Appointing Authority*). This new framework confirms the practical relevance of mediation as a dispute resolution tool in international commerce.
- After the successful introduction of some long-awaited legislative changes, the VIAC, which technically constitutes a division within the Austrian Federal Economic Chamber, will henceforth also administer purely domestic arbitration/mediation cases in addition to the international cases that have so far been the exclusive focus of the VIAC's case load (Article 1 Vienna Rules and Article 1 Vienna Mediation Rules).
- Promoting gender diversity, the new VIAC Rules draw an explicit distinction between the linguistic form chosen in the rules to refer to natural persons (this form shall be understood to apply to all genders) and the linguistic form chosen in arbitration practice (this form shall be gender-specific) (Article 6 Vienna Rules and Article 2 Vienna Mediation Rules).
- As of 2018, all VIAC cases will be administered electronically. The relevant provisions (Statement of Claim, Service, Time Limits and Disposal of File, Arbitral Award, etc.) were amended accordingly (Articles 7, 12 and 36 Vienna Rules and Articles 1 and 3 Vienna Mediation Rules).
- The new VIAC Rules lay down an express obligation for arbitrators, parties and party representatives to conduct the proceedings in an efficient and cost-effective manner. Within the bounds of their respective competences, both the VIAC Secretary General and arbitral tribunals constituted under the new VIAC Rules may take non-compliance into consideration in their decisions on costs (Articles 16 para 6, 28 para 1 and 38 para 2 Vienna Rules).
- Under certain circumstances, respondents may request security for costs (Articles 33 paras 6 and 7

Vienna Rules).

- The VIAC Secretary General now enjoys express authority to increase arbitrators' fees by up to 40 % depending on the particularities of the case, e.g. in especially complex cases, but also to reduce them where appropriate (Articles 44 paras 7 and 10 Vienna Rules).

- The VIAC's model arbitration clauses, as well as its model mediation clauses were revised and adapted to suit the new set of rules (Annex 1).

- Finally, the new VIAC Rules feature amended fee schedules (Annex 3). Registration fees and administrative fees for lower amounts in dispute were adjusted and reduced accordingly. At the same time, administrative fees for very high amounts in dispute were raised, but still remain moderate compared to other international arbitration institutions. Registration fees and administrative fees for proceedings in accordance with the Vienna Mediation Rules now match the fee schedules applicable in arbitration cases (Annex 3 in conjunction with Articles 4 and 8 Vienna Rules).

The new VIAC Rules confirm the ambitious course the VIAC has set for itself for the years to come: to consolidate its first-rate standing as one of the leading arbitration centres in Europe and to assist users of international dispute resolution services who appreciate the benefits of Vienna's unique geographic location and the institution's excellent reputation that extends to all areas of alternative dispute resolution.